



Reprinted  
February 18, 2004

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## ENGROSSED HOUSE BILL No. 1005

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DIGEST OF HB 1005 (Updated February 17, 2004 3:11 pm - DI 92)

**Citations Affected:** IC 6-1.1; IC 24-4.5; IC 28-1; IC 28-5; IC 28-6.1; IC 28-7; IC 34-30; noncode.

**Synopsis:** Property tax information. With respect to a residential real property financing or refinancing, requires a closing agent to provide to each customer information on property tax deductions and the homestead credit on a form prescribed by the department of local government finance. Imposes a penalty on a closing agent that does not comply. Provides that a closing agent is not liable for any other damages claimed by a customer because of closing agent's failure to provide the appropriate document to the customer. Provides for additional information about property taxes to be provided with the property tax statement of current and delinquent taxes and special assessments in a pilot program in certain counties in 2005 and 2006 and statewide after 2006. Permits a county to voluntarily provide the additional information about property taxes with property tax statements in 2004. Provides for state reimbursement of expenditures made by a county to provide the additional information, not to exceed a statewide total of \$50,000.

**Effective:** Upon passage; July 1, 2004.

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**Reske, Kromkowski, Orentlicher,  
Pelath**

(SENATE SPONSORS — KENLEY, LANANE, MILLER)

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December 4, 2003, read first time and referred to Committee on Ways and Means.  
January 12, 2004, amended, reported — Do Pass.  
January 15, 2004, read second time, amended, ordered engrossed.  
January 16, 2004, engrossed.  
January 22, 2004, read third time, passed. Yeas 98, nays 0.

SENATE ACTION

February 3, 2004, read first time and referred to Committee on Finance.  
February 12, 2004, amended, reported favorably — Do Pass.  
February 17, 2004, read second time, amended, ordered engrossed.

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EH 1005—LS 6606/DI 52+



Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1005

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A BILL FOR AN ACT to amend the Indiana Code concerning  
taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-1.1-12-43 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 43. (a) For purposes of this section:**

4           (1) **"benefit" refers to:**

5               (A) **a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26,**  
6               **29, 31, 33, or 34 of this chapter; or**

7               (B) **the homestead credit under IC 6-1.1-20.9-2;**

8           (2) **"closing agent" means a person that closes a transaction,**  
9           **other than an individual who is not an attorney;**

10          (3) **"customer" means an individual who obtains a loan in a**  
11          **transaction; and**

12          (4) **"transaction" means a single family residential:**

13               (A) **first lien purchase money mortgage transaction; or**

14               (B) **refinancing transaction.**

15          (b) **Before closing a transaction after December 31, 2004, a**  
16          **closing agent must provide to the customer the form referred to in**  
17          **subsection (c).**

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(c) Before June 1, 2004, the department of local government finance shall prescribe the form to be provided by closing agents to customers under subsection (b). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit;

(B) list the eligibility criteria for each benefit; and

(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;

(2) on the other side indicate:

(A) each action by; and

(B) each type of documentation from;

the customer required to file for each benefit; and

(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing referred to in subsection (b).

(d) A closing agent:

(1) may reproduce the form referred to in subsection (c);

(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and

(3) is not responsible for the content of the form referred to in subsection (c), and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) A closing agent to which this section applies shall document its compliance with this section with respect to each transaction in the form of verification of compliance signed by the customer.

(f) A closing agent is subject to a civil penalty of twenty-five dollars (\$25) for each instance in which the closing agent fails to comply with this section with respect to a customer. The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the closing agent in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the property tax replacement fund.

A closing agent is not liable for any other damages claimed by a customer because of the closing agent's mere failure to provide the

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1 appropriate document to the customer.

2 (g) The state agency that has administrative jurisdiction over a  
3 closing agent shall:

4 (1) examine the closing agent to determine compliance with  
5 this section; and

6 (2) impose and collect penalties under subsection (f).

7 SECTION 2. IC 6-1.1-22-8 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The county  
9 treasurer shall either:

10 (1) mail to the last known address of each person liable for any  
11 property taxes or special assessment, as shown on the tax  
12 duplicate or special assessment records, or to the last known  
13 address of the most recent owner shown in the transfer book a  
14 statement of current and delinquent taxes and special  
15 assessments; or

16 (2) transmit by written, electronic, or other means to a mortgagee  
17 maintaining an escrow account for a person who is liable for any  
18 property taxes or special assessments, as shown on the tax  
19 duplicate or special assessment records a statement of current and  
20 delinquent taxes and special assessments.

21 (b) The county treasurer may include the following in the statement:

22 (1) An itemized listing for each property tax levy, including:

23 (A) the amount of the tax rate;

24 (B) the entity levying the tax owed; and

25 (C) the dollar amount of the tax owed.

26 (2) Information designed to inform the taxpayer or mortgagee  
27 clearly and accurately of the manner in which the taxes billed in  
28 the tax statement are to be used.

29 A form used and the method by which the statement and information,  
30 if any, are transmitted must be approved by the state board of accounts.  
31 The county treasurer may mail or transmit the statement and  
32 information, if any, one (1) time each year at least fifteen (15) days  
33 before the date on which the first or only installment is due. Whenever  
34 a person's tax liability for a year is due in one (1) installment under  
35 IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must  
36 include the date on which the installment is due and denote the amount  
37 of money to be paid for the installment. Whenever a person's tax  
38 liability is due in two (2) installments, a statement that is mailed must  
39 contain the dates on which the first and second installments are due and  
40 denote the amount of money to be paid for each installment.

41 (c) All payments of property taxes and special assessments shall be  
42 made to the county treasurer. The county treasurer, when authorized by

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the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

(d) Before July 1, 2004, the department of local government finance shall designate five (5) counties to participate in a pilot program to implement the requirements of subsection (e). The department shall immediately notify the county treasurer, county auditor, and county assessor in writing of the designation under this subsection. The legislative body of a county not designated for participation in the pilot program may adopt an ordinance to implement the requirements of subsection (e). The legislative body shall submit a copy of the ordinance to the department of local government finance, which shall monitor the county's implementation of the requirements of subsection (e) as if the county were a participant in the pilot program. The requirements of subsection (e) apply:

(1) only in:

(A) a county designated to participate in a pilot program under this subsection, for property taxes first due and payable after December 31, 2004, and before January 1, 2007; or

(B) a county adopting an ordinance under this subsection, for property taxes first due and payable after December 31, 2003, or December 31, 2004 (as determined in the ordinance), and before January 1, 2007; and

(2) in all counties for taxes first due and payable after December 31, 2006.

(e) Subject to subsection (d), regardless of whether a county treasurer transmits a statement of current and delinquent taxes and special assessments to a person liable for the taxes under subsection (a)(1) or to a mortgagee under subsection (a)(2), the county treasurer shall mail the following information to the last known address of each person liable for the property taxes or special assessments or to the last known address of the most recent owner shown in the transfer book. The county treasurer shall mail the information not later than the date the county treasurer transmits a statement for the property under subsection (a)(1) or (a)(2). The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included on the form. The information that must be provided is the following:

(1) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability

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that will be distributed to each taxing unit in the county.

(2) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(3) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(4) An explanation of the following:

(A) The homestead credit and all property tax deductions.

(B) The procedure and deadline for filing for the homestead credit and each deduction.

(C) The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

(D) The forms that must be filed for an appeal or petition described in clause (C).

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(5) A checklist that shows:

(A) the homestead credit and all property tax deductions; and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (a)(1) or (a)(2).

(f) The information required to be mailed under subsection (e) must be simply and clearly presented and understandable to the average individual.

(g) A county that incurs:

(1) initial computer programming costs directly related to implementation of the requirements of subsection (e); or

(2) printing costs directly related to mailing information under subsection (e);

shall submit an itemized statement of the costs to the department

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of local government finance for reimbursement from the state. The treasurer of state shall pay a claim approved by the department of local government finance and submitted under this section on a warrant of the auditor of state. However, the treasurer of state may not pay any additional claims under this subsection after the total amount of claims paid reaches fifty thousand dollars (\$50,000).

SECTION 3. IC 24-4.5-3-701 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 701. With respect to a consumer loan secured by an interest in land used or expected to be used as the principal dwelling of the debtor, a lender shall comply with IC 6-1.1-12-43.**

SECTION 4. IC 28-1-5-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16. With respect to a residential real property financing or refinancing, a corporation shall comply with IC 6-1.1-12-43.**

SECTION 5. IC 28-5-1-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26. With respect to a residential real property financing or refinancing, an industrial loan and investment company shall comply with IC 6-1.1-12-43.**

SECTION 6. IC 28-6.1-6-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. With respect to a residential real property financing or refinancing, a savings bank shall comply with IC 6-1.1-12-43.**

SECTION 7. IC 28-7-1-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 38. With respect to a residential real property financing or refinancing, a credit union shall comply with IC 6-1.1-12-43.**

SECTION 8. IC 34-30-2-16.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16.6. IC 6-1.1-12-43 (Concerning a closing agent's failure to provide a form concerning property tax benefits).**

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) Except as provided in subsection (b), IC 6-1.1-22-8, as amended by this act, applies only to statements prepared and mailed for property taxes and special assessments first due and payable after December 31,

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1     **2004.**  
2         **(b) IC 6-1.1-22-8, as amended by this act, applies to statements**  
3     **prepared and mailed for property taxes and special assessments**  
4     **first due and payable in a county after December 31, 2003, if that**  
5     **date is specified in an ordinance adopted by the county under**  
6     **IC 6-1.1-22-8(d), as amended by this act.**  
7         **SECTION 10. An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1005, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 8, delete "has the meaning set forth in" and insert **"means:**

**(1) a financial institution (as defined in IC 28-1-1-3(1)); or**

**(2) any other entity;**

**that enters into a residential real property financing or refinancing transaction with a customer."**

Page 1, delete line 9.

Page 1, line 11, delete "June 30," and insert **"December 31,"**

Page 1, line 15, after "(b)." insert **"The department shall make the form available to financial institutions, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public."**

Page 2, line 9, delete "on" and insert **"in"**.

Page 2, line 9, delete "of paper".

Page 2, line 15, delete "paper" and insert **"print"**.

Page 2, line 25, delete "recovered under IC 28-11-4;" and insert **"enforced by the state agency that has administrative jurisdiction over the financial institution in the same manner that the agency enforces the payment of fees or other penalties payable to the agency;"**.

Page 2, line 27, delete "department of financial institutions" and insert **"state agency that has administrative jurisdiction over a financial institution"**.

Page 2, line 28, after "examine" insert **"the"**.

Page 2, line 28, delete "institutions" and insert **"institution"**.

Page 3, delete lines 28 through 42, begin a new paragraph and insert:

**"(d) Before July 1, 2004, the department of local government finance shall designate five (5) counties to participate in a pilot program to implement the requirements of subsection (e). The department shall immediately notify the county treasurer, county auditor, and county assessor in writing of the designation under this subsection. The requirements of subsection (e) apply:**

**(1) only in the counties designated under this subsection for taxes first due and payable after December 31, 2004; and**

**(2) in all counties for taxes first due and payable after**

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December 31, 2005.

(e) Subject to subsection (d), regardless of whether a county treasurer transmits a statement of current and delinquent taxes and special assessments to a person liable for the taxes under subsection (a)(1) or to a mortgagee under subsection (a)(2), the county treasurer shall mail the following information to the last known address of each person liable for the property taxes or special assessments or to the last known address of the most recent owner shown in the transfer book. The county treasurer shall mail the information not later than the date the county treasurer transmits a statement for the property under subsection (a)(1) or (a)(2). The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included on the form. The information that must be provided is the following:

- (1) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.
- (2) A comparison showing any change in the assessed valuation for the property as compared to the previous year.
- (3) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year."

Page 4, delete lines 1 through 6.

Page 4, between lines 19 and 20, begin a new line block indented and insert:

"(5) A checklist that shows:

(A) the homestead credit and all property tax deductions;  
and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (a)(1) or (a)(2)."

Page 4, line 20, delete "(e)" and insert "(f)".

Page 4, line 20, delete "(d)" and insert "(e)".

Page 4, line 23, delete "(f)" and insert "(g)".

Page 4, line 23, delete "treasurer of a county".

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Page 4, line 25, delete "(d)" and insert "(e)".

and when so amended that said bill do pass.

(Reference is to HB 1005 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 27, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1005 be amended to read as follows:

Page 1, line 7, delete "and".

Page 1, delete lines 8 through 12, begin a new line block indented and insert:

**"(2) closing agent" means a person that closes a transaction, other than an individual or an attorney;**

**(3) "customer" means an individual who obtains a loan in a transaction; and**

**(4) "transaction" means a single family residential:**

**(A) first lien purchase money mortgage transaction; or**

**(B) refinancing transaction."**

Page 1, line 13, delete "residential real property financing or" and insert **"transaction"**.

Page 1, line 14, delete "refinancing".

Page 1, line 14, delete "financial institution" and insert **"closing agent"**.

Page 1, line 17, delete "financial" and insert **"closing agents"**.

Page 2, line 1, delete "institutions".

Page 2, line 2, delete "financial institutions," and insert **"closing agents,"**.

Page 2, line 21, delete "financial institution:" and insert **"closing agent:"**.

Page 2, line 22, delete "and".

Page 2, line 24, delete "finance." and insert **"finance; and**

**(3) is not responsible for the content of the form referred to in subsection (c), and shall be held harmless by the department of local government finance from any liability for the content of the form."**

Page 2, line 25, delete "financial institution" and insert **"closing agent"**.

Page 2, line 27, delete "residential real property financing or refinancing".

Page 2, line 29, delete "financial institution" and insert **"closing agent"**.

Page 2, line 29, delete "fifty" and insert **"twenty-five"**.

Page 2, line 30, delete "(\$50)" and insert **"(\$25)"**.

Page 2, line 30, delete "financial institution" and insert **"closing agent"**.

Page 2, line 34, delete "financial institution" and insert **"closing**

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agent".

Page 2, line 39, delete "financial institution" and insert "**closing agent**".

Page 2, line 40, delete "financial institution" and insert "**closing agent**".

Page 4, delete lines 29 through 32, begin a new line block indented and insert:

**"subdivision must identify:**

**(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and**

**(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year."**

Page 5, delete lines 13 through 14, begin a new paragraph and insert:

**"(g) A county that incurs:**

**(1) initial computer programming costs directly related to implementation of the requirements of subsection (e); or**

**(2) printing costs directly related to mailing information under subsection (e);"**

(Reference is to HB 1005 as printed January 13, 2004.)

RESKE

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1005 be amended to read as follows:

Page 4, line 3, after "this subsection." insert "**The legislative body of a county not designated for participation in the pilot program may adopt an ordinance to implement the requirements of subsection (e). The legislative body shall submit a copy of the ordinance to the department of local government finance, which shall monitor the county's implementation of the requirements of subsection (e) as if the county were a participant in the pilot program."**

Page 4, delete lines 4 through 5, begin a new line block indented and insert:

**"(1) only in:**

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**(A) a county designated under this subsection; or  
(B) a county adopting an ordinance under this subsection;  
for property taxes first due and payable after December 31,  
2004, and before January 1, 2006; and".**

(Reference is to HB 1005 as printed January 13, 2004.)

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## COMMITTEE REPORT

Madam President: The Senate Committee on Finance, to which was referred House Bill No. 1005, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 8, delete "closing" and insert **""closing"**.

Page 1, line 9, after "individual" insert **","**.

Page 1, line 9, delete "or an attorney;"

Page 4, delete lines 15 through 18, begin a new line double block indented and insert:

**"(A) a county designated to participate in a pilot program under this subsection, for property taxes first due and payable after December 31, 2004, and before January 1, 2006; or**

**(B) a county adopting an ordinance under this subsection, for property taxes first due and payable after December 31, 2003, or December 31, 2004 (as determined in the ordinance), and before January 1, 2006; and"**.

Page 5, line 38, after "state." insert **"However, the treasurer of state may not pay any additional claims under this subsection after the total amount of claims paid reaches fifty thousand dollars (\$50,000)."**

Page 6, delete lines 23 through 42.

Page 7, delete lines 1 through 29.

Page 7, line 30, after "PASSAGE]" insert **"(a) Except as provided in subsection (b),"**

Page 7, between lines 33 and 34, begin a new paragraph and insert:

**"(b) IC 6-1.1-22-8, as amended by this act, applies to statements prepared and mailed for property taxes and special assessments first due and payable in a county after December 31, 2003, if that date is specified in an ordinance adopted by the county under IC 6-1.1-22-8(d), as amended by this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1005 as reprinted January 16, 2004.)

BORST, Chairperson

Committee Vote: Yeas 13, Nays 0.

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SENATE MOTION

Madam President: I move that Senator Miller be added as cosponsor of Engrossed House Bill 1005.

KENLEY

SENATE MOTION

Madam President: I move that House Bill 1005 be amended to read as follows:

Page 1, line 9, after "individual" insert "**who is not an attorney**".

Page 2, between lines 40 and 41, begin a new line blocked left and insert:

**"A closing agent is not liable for any other damages claimed by a customer because of the closing agent's mere failure to provide the appropriate document to the customer."**

Page 4, line 18, delete "2006;" and insert "**2007;**".

Page 4, line 22, delete "2006;" and insert "**2007;**".

Page 4, line 24, delete "2005." and insert "**2006.**".

Page 5, line 41, after "claim" insert "**approved by the department of local government finance and**".

Page 6, between lines 29 and 30, begin a new paragraph and insert:

**"SECTION 8. IC 34-30-2-16.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16.6. IC 6-1.1-12-43 (Concerning a closing agent's failure to provide a form concerning property tax benefits)."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1005 as printed February 13, 2004.)

KENLEY

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